

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES. See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24.

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COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	
)	
Respondent,)	2 CA-CR 2009-0201-PR
)	DEPARTMENT B
v.)	<u>MEMORANDUM DECISION</u>
)	Not for Publication
MARK ANTHONY LUGO,)	Rule 111, Rules of
)	the Supreme Court
Petitioner.)	
_____)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-035437

Honorable Michael J. Cruikshank, Judge

REVIEW GRANTED; RELIEF DENIED

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B R A M M E R, Judge.

¶1 Following a jury trial, Mark Anthony Lugo was convicted of the following dangerous crimes against children: sexual conduct, sexual abuse, molestation, and attempted sexual conduct. The crimes took place in March and June 1990, when the victim was eleven years old. The trial court sentenced Lugo to terms of imprisonment including a life sentence to be served consecutively with three other consecutive terms totaling forty-five years. This court affirmed the convictions on appeal but remanded the case for resentencing on two of the four counts. *State v. Lugo*, No. 2 CA-CR 92-0561 (memorandum decision filed Jan. 31, 1994). Lugo was resentenced in August 1995; he did not file a subsequent appeal.

¶2 In March 2007, Lugo filed his first notice of post-conviction relief. The trial court dismissed the notice, finding it untimely, and denied Lugo's motion for reconsideration. On review, we found the trial court had acted within its discretion in dismissing the notice as to counts two and three, sexual abuse and molestation, the counts for which Lugo had been resentenced in 1995. *State v. Lugo*, No. 2 CA-CR 2007-0336-PR (memorandum decision filed Apr. 30, 2008). Finding the timeliness requirements in Rule 32.4(a) inapplicable to Lugo's other convictions, however, we granted relief and remanded the matter for further proceedings. *Id.* ¶ 8. Lugo then filed the instant petition for post-conviction relief, contending the molestation was a lesser-included offense of the count for sexual conduct and his convictions for both crimes therefore violated double jeopardy principles. He also contended his sentence for attempted sexual conduct with a minor was illegal pursuant to the holding in *State v. Gonzalez*, 216 Ariz. 11, 162 P.3d 650 (2007). The court summarily

dismissed the petition in a well reasoned ruling denying relief on both of Lugo's claims. We review a trial court's denial of post-conviction relief for an abuse of discretion. *See State v. Watton*, 164 Ariz. 323, 325, 793 P.2d 80, 82 (1990).

¶3 Lugo's petition for review fails meaningfully to challenge the trial court's sound legal analysis. Because the court's order clearly identified the issues and correctly resolved them so any court in the future can understand its ruling, and because the court's findings and conclusions are supported by the record before us, we see no purpose in rehashing the order here. *See State v. Whipple*, 177 Ariz. 272, 274, 866 P.3d 1358, 1360 (App. 1993). Instead, we adopt it. *See id.* Accordingly, although we grant Lugo's petition for review, we deny relief.

J. WILLIAM BRAMMER, JR., Judge

CONCURRING:

PETER J. ECKERSTROM, Presiding Judge

GARYE L. VÁSQUEZ, Judge